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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/750,913	01/05/2004	Jon B. Schneider	25815-10901	1982	
75	7590 12/17/2004			EXAMINER	
Law Offices of Jerome J. Norris			GELLNER, JEFFREY L		
Suite 305 1901 Pennsylvania Avenue, N.W.			ART UNIT	PAPER NUMBER	
Washington, DC 20006			3643		
			DATE MAILED: 12/17/2004		

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
	10/750,913	SCHNEIDER, JON B.				
Office Action Summary	Examiner	Art Unit				
	Jeffrey L. Gellner	3643				
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply						
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	36(a). In no event, however, may a reply be timed within the statutory minimum of thirty (30) days will apply and will expire SIX (6) MONTHS from the cause the application to become ABANDONED	ely filed s will be considered timely. the mailing date of this communication. O (35 U.S.C. § 133).				
Status						
 1)⊠ Responsive to communication(s) filed on 05 January 2004. 2a)□ This action is FINAL. 2b)⊠ This action is non-final. 3)□ Since this application is in condition for allowance except for formal matters, prosecution as to the ments is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. 						
Disposition of Claims						
4) ☐ Claim(s) 1-20 is/are pending in the application. 4a) Of the above claim(s) is/are withdray 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) 1-20 are subject to restriction and/or expressions.	vn from consideration.					
Application Papers						
9) The specification is objected to by the Examine 10) The drawing(s) filed on is/are: a) access applicant may not request that any objection to the Replacement drawing sheet(s) including the correction. The oath or declaration is objected to by the Examine	epted or b) objected to by the Eddrawing(s) be held in abeyance. See ion is required if the drawing(s) is obj	e37 CFR 1.85(a). ected to. See 37 CFR 1.121(d).				
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of: 1. Certified copies of the priority documents 2. Certified copies of the priority documents 3. Copies of the certified copies of the priori	s have been received. s have been received in Application rity documents have been receive u (PCT Rule 17.2(a)).	on No ed in this National Stage				
Attachment(s)						
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal Pa	(PTO-413) te atent Application (PTO-152)				

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-11 and 18, drawn to a method of providing a mulch, classified in class49, subclass 9.
- II. Claims 14-17 and 20, drawn to the combination of a particulate magnetic material and a particulate magnetic attracting material, classified in class 420, subclass 9.
- III Claims 12, 13, and 19, drawn to the subcombination of a particulate magnetic material having a particular diameter, classified in class 420, subclass 9.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II or III are related as process of use and product to be used. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product can be used in artistic devices such as an etch-a-sketch.

Inventions II and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as

claimed such as a particular diameter size The subcombination has separate utility such as a decoration that adheres to metal pipe or strips.

As to Inventions I and II or III, because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper. As to Inventions II and III, because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group III, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Conclusion

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey L. Gellner whose phone number is 703.305.0053. The Examiner can normally be reached Monday through Thursday from 8:30 am to 4:00 pm. The Examiner can also be reached on alternate Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Peter Poon, can be reached at 703.308.2574. The official fax telephone number for the Technology Center where this application or proceeding is assigned is 703.872.9306.

Application/Control Number: 10/750,913

Art Unit: 3643

Page 4

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

1

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.

Jeffrey L. Gellner Primary Examiner